

§ 15A-294. Authorization for disclosure and use of intercepted wire, oral, or electronic communications.

(a) Any investigative or law enforcement officer who, by any means authorized by this Article or Chapter 119 of the United States Code, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may disclose such contents to another investigative or law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure.

(b) Any investigative or law enforcement officer, who by any means authorized by this Article or Chapter 119 of the United States Code, has obtained knowledge of the contents of any wire, oral, or electronic communication, or evidence derived therefrom, may use such contents to the extent such use is appropriate to the proper performance of the officers' official duties.

(c) Any person who has received, by any means authorized by this Article or Chapter 119 of the United States Code, any information concerning a wire, oral, or electronic communication, or evidence derived therefrom, intercepted in accordance with the provisions of this Article, may disclose the contents of that communication or such derivative evidence while giving testimony under oath or affirmation in any proceeding in any court or before any grand jury in this State, or in any court of the United States or of any state, or in any federal or state grand jury proceeding.

(d) Within a reasonable time, but no later than 90 days after the filing of an application for an order or the termination of the period of an order or the extensions thereof, the issuing judicial review panel must cause to be served on the persons named in the order or the application and such other parties as the panel in its discretion may determine, an inventory that includes notice of:

- (1) The fact of the entry of the order or the application;
- (2) The date of the entry and the period of the authorized interception; and
- (3) The fact that during the period wire, oral, or electronic communications were or were not intercepted.

(d1) The notification required pursuant to G.S. 15A-294(d) may be delayed if the judicial review panel has probable cause to believe that notification would substantially jeopardize the success of an electronic surveillance or a criminal investigation. Delay of notification shall be only by order of the judicial review panel. The period of delay shall be designated by the judicial review panel and may be extended from time to time until the jeopardy to the electronic surveillance or the criminal investigation dissipates.

(e) The issuing judicial review panel, upon the filing of a motion, may in its discretion, make available to such person or his counsel for inspection, such portions of the intercepted communications, applications, and orders as the panel determines to be required by law or in the interest of justice.

(f) The contents of any intercepted wire, oral, or electronic communication, or evidence derived therefrom, may not be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in any court of this State unless each party, not less than 20 working days before the trial, hearing, or other proceeding, has been furnished with a copy of the order and accompanying application, under which the interception was authorized.

(g) Any aggrieved person in any trial, hearing, or proceeding in or before any court, department, officer, agency, regulatory body, or other authority of this State, or a political subdivision thereof, may move to suppress the contents of any intercepted wire, oral, or electronic communication, or evidence derived therefrom, on the grounds that:

- (1) The communication was unlawfully intercepted;

- (2) The order of authorization under which it was intercepted is insufficient on its face; or
- (3) The interception was not made in conformity with the order of authorization.

Such motion must be made before the trial, hearing, or proceeding unless there was no opportunity to make such motion or the person was not aware of the grounds of this motion. If the motion is granted, the contents of the intercepted wire, oral, or electronic communication, or evidence derived therefrom, must be treated as having been obtained in violation of this Article.

(h) In addition to any other right to appeal, the State may appeal:

- (1) From an order granting a motion to suppress made under subdivision (1) of this subsection, if the district attorney certifies to the judge granting the motion that the appeal is not taken for purposes of delay. The appeal must be taken within 30 days after the date the order of suppression was entered and must be prosecuted as are other interlocutory appeals; or
- (2) From an order denying an application for an order of authorization, and the appeal may be made ex parte and must be considered in camera and in preference to all other pending appeals.

(i) The requirements of G.S. 15A-293(b)(2) and G.S. 15A-293(a)(4) relating to the specification of the facilities from which, or the place where, the communication is to be intercepted do not apply if:

- (1) In the case of an application with respect to the interception of an oral communication:
 - a. The application is by a State investigative or law enforcement officer and is approved by the Attorney General or his designee;
 - b. The application contains a full and complete statement as to why the specification is not practical and identifies the person committing the offense and whose communications are to be intercepted; and
 - c. The judicial review panel finds that the specification is not practical.
- (2) In the case of an application with respect to a wire or electronic communication:
 - a. The application is by a State investigative or law enforcement officer and is approved by the Attorney General or his designee;
 - b. The application identifies the person believed to be committing the offense and whose communications are to be intercepted, and the applicant makes a showing that there is probable cause to believe that the person's actions could have the effect of thwarting interception from a specified facility;
 - c. The judicial review panel finds that the showing has been adequately made; and
 - d. The order authorizing or approving the interception is limited to interception only for such time as it is reasonable to presume that the person identified in the application is or was reasonably proximate to the instrument through which the communication will be or was transmitted.

(j) An interception of a communication under an order with respect to which the requirements of G.S. 15A-293(b)(2) and G.S. 15A-293(a)(4) do not apply by reason of subdivision (i)(1) of this section shall not begin until the place where the communication is to be intercepted is ascertained by the person implementing the interception order. A provider of wire or electronic communications service that has received an order as provided for in

subdivision (i)(2) of this section may move the court to modify or quash the order on the grounds that its assistance with respect to the interception cannot be performed in a timely or reasonable fashion. The court, upon notice to the government, shall decide such a motion expeditiously. (1995, c. 407, s. 1; 1997-435, s. 3; 2005-207, s. 4.)